

**CRIMINAL JUSTICE SERVICES BOARD
COMMITTEE ON TRAINING**

MINUTES

June 14, 2007

A meeting of the Criminal Justice Services Board Committee on Training (COT) convened at 9:00 a.m. on Thursday, June 14, 2007, in House Room D of the General Assembly Building, in Richmond, Virginia.

Members Present:

Sheriff Beth Arthur
Mr. Robert L. Bushnell
Mr. Alfred T. Dowe, Jr.
Ms. Katya Herndon (*Proxy for The Honorable Karl R. Hade, Executive Secretary, Supreme Court of Virginia*)
Mr. Kevin S. Hodges
Chief Alfred Jacocks, Vice Chair
Chief James R. Lavinder
Dr. Jay W. Malcan
Sheriff Charles W. Phelps, Chairman
Captain Lenmuel S. Terry (*Proxy for Colonel Steve Flaherty, Superintendent, Virginia State Police*)
Mr. Sherman C. Vaughn
Mr. Christopher R. Webb

Members Not Present:

Mr. Gerald P. Eggleston (*Proxy for Gene Johnson, Director, Department of Corrections*)

DCJS Staff Present:

Leon Baker
Ron Bessent
Donna Bollander

George B. Gotschalk
Sharon Gray
Judith Kirkendall

Thomas E. Nowlin
Roslyn Trent
Elizabeth White

Others Present:

Marty R. Alford, *New River Criminal Justice Academy*
James Chapman, *Roanoke County Police Department*
Jon Cliborne, *Crater Criminal Justice Academy*
Teresa Hall, *Roanoke County Administration*
Elmer Hodge, *Roanoke County Administration*
Terrell Hollbrook, *Roanoke County Police Department*
Gerald Holt, *Roanoke County Sheriff's Office*
Vince Ferrara, *Hampton Roads Criminal Justice Training Academy*
Tim Kindrick, *Central Shenandoah Criminal Justice Academy*
Paul Mahoney, *Roanoke County Attorney*
Jon McCachlen, *Virginia Commonwealth University Police Department*
Tyrone Morrow, *Fairfax County Criminal Justice Academy*

Call To Order:

Sheriff Phelps called the meeting to order. The roll was called with ten (10) members present, which indicated a quorum. (*Mr. Dowe and Chief Jacocks arrived later.*) The Chairman asked if there were any other questions or comments regarding the minutes of the last meeting. Ms. Herndon noted that Colonel Steve Flaherty's name was misspelled under "Members Present". Hearing no other comments, he asked for a motion to approve the minutes as amended. Mr. Webb made a motion to approve the minutes; Mr. Hodges seconded, and the minutes were approved unanimously.

Old Business:

Roanoke Training Academy Request

Chairman Phelps noted that during the March 8th and May 9th meetings, George Gotschalk distributed copies of a letter from Roanoke County Police Department referencing **Senate Bill 1308** and also asking that the Department examine the region's needs in consideration of an independent training academy. He introduced Mr. Gotschalk to provide more information on this matter.

Mr. Gotschalk advised that he had sent a list of items that should be considered regarding the establishment of a new academy to the members and introduced Chief Lavinder to make the

presentation. Chief Lavinder acknowledged Elmer Hodge, Roanoke County Administrator; Paul Mahoney, Attorney for Roanoke County; and the Honorable Gerald Holt, Sheriff, Roanoke County were also present in representing Roanoke County. He mentioned that recently the General Assembly had passed regulations for Roanoke County to proceed in their desires to establish an independent training academy. He noted that in preparation of establishing the academy, they had seventy-three (73) certified instructors, nine (9) other instructors being trained and awaiting certification, a new training facility, three (3) classrooms for academy use only, a new driver training center, and a state-of-the art firing range with a tactical house. Pictures of some of these features were sent to the members the week prior to the meeting. He noted that Mr. Gotschalk and Colette Brown, DCJS Program Analyst, had visited the facilities and were given a tour of its attributes. He advised that the contingency would like to apply for national accreditation standards for the new academy and intend to write policies that are also consistent with national guidelines.

Sheriff Holt noted that the intent to establish an independent academy is a corroborative effort on the part of their agencies and the region. The academy would provide training for law enforcement, as well as courtroom security, civil process servers, jailors, and various other trainings for more than two hundred (200) law enforcement professionals already in the area. He noted that consideration had been taken for the new Western Regional Jail that would be established and would need approximately two hundred (200) new employees who would also need to be trained. He asked the Committee on Training to approve this operation.

Sheriff Phelps asked where the jail officers are currently being receiving training. Sheriff Holt responded that staff has not been trained, and the jail authority has not been established. However, the authority would look to all of the training facilities in the area in order to train that number of employees. Sheriff Phelps asked if they had spoken with New River Criminal Justice Academy on how this might affect them. Sheriff Holt responded that the Roanoke County Sheriff's Office had four (4) officers who had just graduated from New River CJTA the previous week.

After the presentation, Mr. Gotschalk advised that the Committee needed to vote on whether or not to approve the new training academy in order to go forward. If the academy is approved they would have to go through the certification process. Sheriff Arthur made a motion to approve the new independent academy for the Roanoke region, and Mr. Bushnell seconded. Chief Lavinder recused himself from voting. The motion was voted upon and carried unanimously.

Transfer of Agencies from Regional Academies

Sheriff Phelps reminded the members that at one of the meetings of the Committee in spring of 2006, it was indicated that an opinion may be needed from the Office of the Attorney General (OAG) concerning agencies transferring from one academy to another academy. He noted that Mr. Gotschalk has obtained an informal opinion related to this issue and would discuss the matter with the Committee.

Mr. Gotschalk advised that he had asked the Office of Attorney General for clarification of § **15.2-1747** of the *Code of Virginia*, regarding the establishment of academies and agency transfers and asked the following questions:

(1) What legal sanctions are available?

Mr. Gotschalk was advised that §**15.2-1747** does not impose any sanctions. However, this does not mean that sanctions cannot be provided and can be provided in two ways: contract penalty provisions and regulatory provisions, which may be imposed. Mr. Gotschalk mentioned that in one of the previous meetings of the COT Mr. Bushnell had suggested the use of contracts between agencies and academies. Thus, the matter could be taken to court for breach of contract.

(2) As it relates to the Department, does the budget bill preclude any new academy from being formed?

The opinion of the OAG is that the only mention of an independent academy is in § **9.1-106** of the *Code of Virginia* where the Board is restricted from approving any new regional academy but is not precluded from approving any new independent criminal justice academies. He added that this appears to be contrary to the original opinion of the Joint Legislative Audit and Review Committee (JLARC), which sought to limit the creation of academies for funding purposes. Mr. Gotschalk advised that this informal opinion could have a negative impact on regional academies.

(3) What authority does the Department have to establish and enforce sanctions?

§**15.2-1747** (c) and (d) are the controlling *Code* sections governing agency transfers, and neither section grants the Criminal Justice Services Board nor the Department of Criminal Justice Services the authority to establish and enforce sanctions.

(4) What recourse does DCJS or the CJSB have to force compliance?

The OAG recommends the use of the control of funds by regulation. The Department can request member agencies to enter into a contract or agreement memorandum with their academies to give the agreement contract value, which would also take DCJS and the CJSB out of the loop should there be a breach of contract.

Mr. Gotschalk noted that these informal opinions would guide his actions for the moment. He also mentioned that he would talk with Mr. Baker and Mr. Cooke to see how the Department should proceed in getting a formal opinion for the future.

Mr. Baker asked Mr. Gotschalk to clarify the type of opinion sent by the OAG. Mr. Gotschalk noted that this was an informal opinion as formal opinions generally come from the director of an agency. The informal opinion does not have as much weight as a formal opinion. Sheriff Phelps asked how a new independent academy would impact the regional academies. Mr. Gotschalk responded that the Department uses a formula for the distribution of funds that includes a three- (3-) year average of the population of officers among the member agencies of the academies. Using this method would ensure that the regional academy would not feel the full impact of financial loss all at one time if agencies choose to withdraw membership from the academy. Mr. Gotschalk explained that the regional academy would feel some impact during the first year, more impact during the second year, and all of impact in the third year.

Academy Re-certification

The chairman mentioned that each year approximately one third of the academies, which are certified, undergo the re-certification process. He then asked Mr. Gotschalk to discuss this year's re-certification efforts and future needs.

Mr. Gotschalk advised that the law states that the Department has the authority to approve a new school. Thus the academy certification process was established to note that academies must meet certain requirements, including policies. He mentioned that the Department also wanted to know that the chiefs and sheriffs are included in the process. Academies are re-certified for three years. During the re-certification process, staff will look at policies and lesson plans to make sure that the rules of the academies are being met. The Department has set up a schedule of re-certifying a certain number of academies each year. (Usually, a third of the academies are re-certified each year then every three years thereafter.)

Mr. Gotschalk advised that Colette Brown, DCJS Program Analyst, and John Byrd, DCJS Program Manager, handle this process jointly to provide uniformity and consistency. He liked the Department to the Internal Revenue Service (IRS) as the Department is more of a regulatory agency regarding audits as they expect to see that the academies can prove what they say they have. Mr. Gotschalk advised revisiting the re-certification process. Ms. Brown and Mr. Byrd have made a list of issues they feel need to be addressed, and Mr. Gotschalk wants the COT to be included in making these recommendations.

Mr. Gotschalk asked for a subcommittee to assist in this review and possible amendment of academy re-certification requirements. He suggested that most correspondence could be done by electronically. However, he does expect several face-to-face meetings before the final process. He also asked that members of this subcommittee represent a broad perspective of the criminal justice system, and the subcommittee will make periodic reports to the COT during the process.

Chairman Phelps asked for volunteers. Mr. Dow asked if anyone has taken into consideration how population relates to officers on the streets as pockets of the Commonwealth's population have a tendency to change drastically. He also asked if there has been any consideration of a mega-regional facility. Mr. Gotschalk responded that Ron Bessent, Assistant Section Chief, DCJS Standards & Training; Lex Eckenrode, former DCJS Deputy Director of Operations; and he have been dealing with these issues for years. He noted that these issues have been addressed in the 1980's with Jim Kotter, in 1986 by the State Crime Commission, and by JLARC in the late 1990's.

Mr. Gotschalk advised that there are advantages and many discussions of having one single statewide academy or only three (3) regional mega academies or only ten (10) regional academies. He advised that a lot of history and politics attached to these issues. He mentioned that the chiefs and sheriffs have a sense of ownership in regard to the regional academies, and they want to maintain a certain sense of control. Thus, if there was only one statewide academy, the chiefs and sheriffs would lose control.

Hearing no other questions or comments, the Chairman asked for volunteers for this subcommittee, and they are as follows:

- Mr. Charles Webb, a representative of the Virginia Association of Regional Jails,
- Chief Richard Lavinder, and
- Sheriff Charles Phelps.

Appointment of Members to the Law Enforcement CRC

Chairman Phelps asked Judy Kirkendall to review with the Committee the names of proposed appointments for the members of the Curriculum Review Committee whose terms have expired. Ms. Kirkendall distributed the following list of nominees for the term 2007-2009:

- George W. Stevens, Training Coordinator, Rappahannock Criminal Justice Academy, Fredericksburg, Virginia,
- Captain Alfred Miller, Director, Prince William County Criminal Justice Academy, Nokesville, Virginia, and
- Tim Kindrick, Director, Central Shenandoah Criminal Justice Academy, Weyers Cave, Virginia.

Chairman Phelps asked if there were any questions or comments regarding the nominees. Hearing none, Mr. Dowe made a motion to accept the nominees, to which Captain Terry seconded. The nominees were voted upon and were passed unanimously.

New Business:

Canine Training

During the past two sessions of the Virginia General Assembly, legislation has been introduced which would require the Criminal Justice Services Board to establish entry-level and refresher training relating to law enforcement use of canines in performing certain duties. Chairman Phelps asked Mr. Gotschalk to discuss this issue with the Committee and advise us of recent initiatives.

Mr. Gotschalk advised that the bill passed by the General Assembly does not require the DCJS to regulate the training of the trainers of the canine, but it does require that the Department regulate the dogs. This legislation was introduced two years in a row but was tabled this year to be discussed during the 2008 session of the General Assembly. Mr. Gotschalk noted that he does not know the Governor's, the Secretary of Public Safety's, or the Department's position on this issue. He noted that staff is concerned because they do not have expertise in this area and do not know how to regulate non-humans. He suggests that these issues be addressed as soon as possible.

Mr. Gotschalk advised that DCJS had a two day Blueprints Policy forum in May 2007. One of the topics was to get an education on canine training. Representatives were . . . During the forum, he was made aware that there are a number of categories of dogs that are used by law

enforcement, including patrol, tracking, drugs – both, passive and aggressive, vegetation, and dogs that smell currency, to name a few.

Mr. Gotschalk acknowledged that no one knows how many dog teams (canine and officer) there are in the Commonwealth and what they are trained to do. One of the points derived from the forum is that one can not discuss the dog and the trainer separately as they are considered a team. He mentioned that Captain Terry related that State Police also has new ideas for the use of canine. He also noted that State Police is considering that if a dog handler is promoted to a supervisory position, he would still be matched with the dog and will periodically be asked to function as an officer on duty teamed with the canine. In light of this, one of the issues that should be addressed is the dog team itself.

Mr. Gotschalk advised that if the GA is considering legislation in this matter, it would be better that the handler and the dog are mandated training simultaneously. He added that no one at the forum opposed mandating training standards.

Mr. Gotschalk noted that two provisions need to be developed on the handling and training of the dogs. Representatives at the meeting advised that if this becomes law, it would be helped to get input of chiefs and sheriffs and dog training organizations to get a vision on where training should start. It was also noted that it would be useful for agency administrators if guidelines were set on what traits and characteristics to look for in purchasing a dog, and these guidelines could be available for model policies. Mr. Gotschalk mentioned that Dana Schrad, Executive Director, Virginia Association of Chiefs of Police (VACP), also participated at the forum and suggests that some smaller localities would benefit with some directions providing guidelines as some dogs can be purchased but do not have the traits to perform the tasks.

Mr. Gotschalk advised that State Police has a policy strictly used for handling of canines. He suggested that maybe this could be shared with other agencies in looking at this issue. Mr. Gotschalk is writing a draft summary a draft summary of the Blueprints session, and he sees that others in the field might find this as necessary information. He noted that after determining the Governor's, Secretary Marshall's, and the Department's positions of this issue, he would bring more info before the Committee. He added that this issue would be subject to legislation. He mentioned that Captain Terry has invited staff to come to the State Police Academy to observe the training of canines to which he would accept.

Mr. Dowe asked if it was true that if dogs are too aggressive to use for law enforcement purposes it is usually euthanized and if these dogs could be retrained to do something else. Mr. Gotschalk responded that some of the dogs that law enforcement has obtained have also proven to be more aggressive than they prefer, and they have to be removed from use by law enforcement. He noted that if Mr. Dowe was asking if dogs are too aggressive when used by the public, law enforcement use of these dogs would probably not be a consideration. Captain Terry responded that when someone calls VSP to donate a dog for use with law enforcement, VSP sends someone out to evaluate the dog and bring it in to see if it has the temperament or qualities that can be used in their program. If the dog does not have the temperament and is not obedient, they will try to find a setting wherein that dog would work. However, if the dog is too aggressive for State Police's purposes it might be taken in by the public providing it is not too aggressive and can be

disciplined. Captain Terry stated that he is not aware of a situation where the dog has been euthanized.

Mr. Bushnell asked if the Department is currently regulating the training of the human half of the handler/canine team. Mr. Gotschalk responded that there have been suggestions for the regulation of mounted patrols and the canines and handlers. However, the Department is not regulating them. He noted that the Private Security Section does regulate the training of the handler of guard dogs.

Mr. Bushnell asked if there was an understanding of the perceived problem that the proposed legislation addresses. Mr. Gotschalk responded that he is unaware of any specific situation that could have precipitated this decision. Yet, if a standard was developed there would be a consistent method of training the animal and the handler and provide guidelines for all entities. He also pointed out that when there have been multiple jurisdictions involved in a situation, oftentimes the one jurisdiction is unaware of the type of training the canine from the other jurisdiction has. Captain Terry added that one of the major discussions at the forum was when you have multiple jurisdictions on the scene and different handler, there is uncertainty of the level and type of training of the animal and handler. Mr. Gotschalk noted that some dogs are trained in conjunction with some of the professional associations, like Working Dog Associations, and VSP, where their dogs are trained and the trainers are instructed on how to train other handlers. He advised that there are private vendors that might not be providing the same level of service. There is a concern that the proposed regulations do not require refresher training for the dog and handler and the initial training would be all they would receive.

Captain Terry advised that at VSP there have been instances where the explosives canine handlers have responded to incidents and have been in the presence of others looking for an explosive device, and the canine missed what should have been found. He added that as pointed out at the forum, a drug dog missing a drug that should have been located is not as lethal as an explosives dog missing an explosive.

Mr. Baker asked if any questions were asked at the session about what the dogs do and if the results of using the dogs ever brought up as an issue in court. Mr. Gotschalk responded that a couple of commonwealth's attorneys were invited to the meeting: Don Caldwell, Roanoke County, and Joel R. Branscom, Botetourt County, who also had experience with search dogs. He advised that there does not appear to be court cases in Virginia relating to issues dealing with the use of canine for law enforcement purposes. However, he noted, that does not mean that it cannot happen.

There were no questions or comments from the members.

Public Comment

Sheriff Phelps asked if there was anyone in the audience that would like to address the COT concerning matters within its purview. Kenneth Davis, Private Security Services Advisory Board (PSSAB), asked to address the members.

Mr. Davis mentioned that he was a surety bail bondsman and had been a property bail bondsman, and he reminded the members that he had previously addressed them during the public hearing in March 2007, regarding the regulations relating to bail bondsmen. He restated his concern about bail bonds businesses going out of business and reestablishing under a different name. He acknowledged that the company for which he worked had recently reorganized and changed its name and had not been returning his phone calls. He advised that there are bail bondsmen with felonies and misdemeanors who are licensed and bonding individuals out of jail. Mr. Davis informed that because of his dissatisfaction he was tendering his resignation to the PSAAB. He mentioned that he had a meeting with the only bondsman association that would grant him an audience to discuss these issues, and they had not offered him any suggestions to bring before the Committee. He added that he did not appreciate the direction of the regulations.

Mr. Davis advised that he has been a bondsman for fifteen (15) years and had supported the Department's regulation of the bondsmen in order to hold the bondsmen accountable. He mentioned that at Richmond Sheriffs Office, deputies are pointing out specific bondsmen in order for them to get business. He noted that he feels the laws and regulations are going in the right direction, but they are not exactly what are needed. He feels that there should also be someone to observe the actions of the bondsmen. Mr. Davis mentioned that he had observed the vice president of the bondsmen association with whom he had the meeting soliciting business in front of the magistrate's office in Chesterfield Court, which is against the regulations. He then asked the Committee for suggestions on how to improve the regulation of this behavior.

Mr. Baker asked if he had filed a complaint with the Department. Mr. Davis responded that he had filed a complaint and has seen no direction. Mr. Baker advised that the Department has staff that could investigate these allegations and give Mr. Davis a response. Mr. Davis mentioned that Burt Walker, Assistant Section Chief, DCJS Private Security Services Section, has more than he can handle and that Mr. Davis does not see any way out of the current situation.

Mr. Davis added that he had called PSS for over a week and in the interim had also lost five thousand six hundred dollars (\$5600) as he had to give some business to other bondsmen because PSS could not give him direction. He noted that the company he worked for would not help him, and the State Corporation Commission (SCC) had snubbed him. Mr. Davis mentioned that he had turned in a power of attorney his company was using with the Commonwealth of Virginia, and the portion at the top of the form that states the form is valid in specific counties that are identified there does not have the names of the counties filled in. Mr. Davis noted that this particular power of attorney is not valid because of the incomplete information. He acknowledges that the power of attorney was for the entire state of Virginia, yet no one could respond to this when the issue was brought before them.

Mr. Davis advised that after a week of leaving messages with PSS, he was able to speak with Lisa McGee, Acting Chief, PSS, who was able to offer some assistance. Yet, he was concerned that the power of attorney issued by his company is still accepted although it is not legal because of the missing information. He asserted that his reputation and integrity are on the line and noted that he had previously turned down positions with Capitol Police and the Virginia State Police to work with the private security industry, for which he is now having regrets.

Next Meeting

Hearing no other concerns from the audience, Sheriff Phelps noted that the next meeting of the Committee on Training is scheduled for September 13, 2007.

Adjournment

A motion was by Mr. Dowe to adjourn the meeting. The motion was seconded by Mr. Vaughn, was carried unanimously, and the meeting was adjourned at 10:07 a.m.

Respectfully submitted,

Thomas E. Nowlin
Recording Secretary

Approved:

The Honorable Charles W. Phelps
Chair

Date

Attachment(s)